

LEGISLATIVE BILL 551

Approved by the Governor May 6, 2005

Introduced by Jensen, 20; Price, 26

AN ACT relating to public health and welfare; to amend sections 71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922, Revised Statutes Supplement, 2004; to change training requirements relating to alcohol and drug counselor training supervisors; to establish a data and information system; to provide duties for the Division of Behavioral Health Services; to change provisions relating to membership on a council, on advisory committees, and on a commission; to change provisions relating to the Compulsive Gamblers Assistance Fund; to change provisions relating to mental health board proceedings; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-1,356, Revised Statutes Supplement, 2004, is amended to read:

71-1,356. (1)(a) The practical training supervisor for supervised practical training required under section 71-1,355 shall hold one of the following credentials:

(i) Licensure as an alcohol and drug counselor;
(ii) A reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its successor;
or

(iii) Licensure as a physician or psychologist under the Uniform Licensing Law, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations. ~~specialized training in alcohol and drug counseling and the twelve core functions sufficient to protect the public.~~

(b) The practical training supervisor shall not be a family member.

(c) The credential requirement of this subsection applies to the work setting supervisor and not to a practicum coordinator or instructor of a postsecondary educational institution.

(2) The practical training supervisor shall assume responsibility for the performance of the individual in training and shall be onsite at the work setting when core function activities are performed by the individual in training. A minimum of one hour of evaluative face-to-face supervision for each ten hours of core function performance shall be documented. Supervisory methods shall include, as a minimum, individual supervisory sessions, formal case staffings, and conjoint, cotherapy sessions. Supervision shall be directed towards teaching the knowledge and skills of professional alcohol and drug counseling.

Sec. 2. Section 71-1,358, Revised Statutes Supplement, 2004, is amended to read:

71-1,358. (1)(a) The clinical supervisor for supervised clinical work experience under section 71-1,357 shall hold one of the following credentials:

(i) Licensure as an alcohol and drug counselor;
(ii) A reciprocity level alcohol and drug counselor credential issued by a member jurisdiction of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its successor;

(iii) The highest level alcohol and drug counselor credential issued by a jurisdiction that is not a member of the International Certification and Reciprocity Consortium, Alcohol and Other Drug Abuse, Inc. or its successor if the credential is based on education, experience, and examination that is substantially similar to the license issued in this state as determined by the board; or

(iv) Licensure as a physician or psychologist under the Uniform Licensing Law, or an equivalent credential from another jurisdiction, and sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists, in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the department in rules and regulations. ~~specialized training in alcohol and~~

~~drug counseling and the twelve core functions sufficient to protect the public.~~

(b) The clinical supervisor shall be formally affiliated with the program or agency in which the work experience is gained.

(c) The clinical supervisor shall not be a family member.

(2) There shall be one hour of evaluative face-to-face clinical supervision for each forty hours of paid alcohol and drug counseling work experience. The format for supervision shall be either one-on-one or small group. Methods of supervision may include case review and discussion or direct observation of a counselor's clinical work.

Sec. 3. Section 71-810, Revised Statutes Supplement, 2004, is amended to read:

71-810. (1) The division shall encourage and facilitate the statewide development and provision of an appropriate array of community-based behavioral health services and continuum of care for the purposes of (a) providing greater access to such services and improved outcomes for consumers of such services and (b) reducing the necessity and demand for regional center behavioral health services.

(2) The division may reduce or discontinue regional center behavioral health services only if (a) appropriate community-based services or other regional center behavioral health services are available for every person receiving the regional center services that would be reduced or discontinued, (b) such services possess sufficient capacity and capability to effectively replace the service needs which otherwise would have been provided at such regional center, and (c) no further commitments, admissions, or readmissions for such services are required due to the availability of community-based services or other regional center services to replace such services.

(3) The division shall notify the Governor and the Legislature of any intended reduction or discontinuation of regional center services under this section. Such notice shall include detailed documentation of the community-based services or other regional center services that are being utilized to replace such services. The Behavioral Health Oversight Commission of the Legislature shall review such documentation and shall report to the Governor and the Health and Human Services Committee of the Legislature whether, in its opinion, the requirements of subsection (2) of this section have been met with respect to such intended reduction or discontinuation of regional center services and shall enumerate the criteria used by the commission in making such determination.

(4) As regional center services are reduced or discontinued under this section, the division shall make appropriate corresponding reductions in regional center personnel and other expenditures related to the provision of such services. All funding related to the provision of regional center services that are reduced or discontinued under this section shall be reallocated and expended by the division for purposes related to the statewide development and provision of community-based services.

(5) The division may establish state-operated community-based services to replace regional center services that are reduced or discontinued under this section. The division shall provide regional center employees with appropriate training and support to transition such employees into positions as may be necessary for the provision of such state-operated services.

(6) When the occupancy of the licensed psychiatric hospital beds of any regional center reaches twenty percent or less of its licensed psychiatric hospital bed capacity on March 15, 2004, the division shall notify the Governor and the Legislature of such fact. Upon such notification, the division, with the approval of a majority of members of the Executive Board of the Legislative Council, may provide for the transfer of all remaining patients at such center to appropriate community-based services or other regional center services pursuant to this section and cease the operation of such regional center.

(7) The division, in consultation with each regional behavioral health authority, shall establish and maintain a data and information system for all persons receiving state-funded behavioral health services under the Nebraska Behavioral Health Services Act. Information maintained by the division shall include, but not be limited to, (a) the number of persons receiving regional center services, (b) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving regional center services, (c) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving community-based services, (d) the number of persons voluntarily admitted to a regional center and receiving regional center services, (e) the number of persons waiting to receive regional center services, (f) the number of persons

waiting to be transferred from a regional center to community-based services or other regional center services, (g) the number of persons discharged from a regional center who are receiving community-based services or other regional center services, and (h) the number of persons admitted to behavioral health crisis centers. Each regional behavioral health authority shall provide such information as requested by the division and necessary to carry out this subsection. The division shall submit reports of such information to the Governor and the Legislature on a quarterly basis beginning July 1, 2005, in a format which does not identify any person by name, address, county of residence, social security number, or other personally identifying characteristic.

(8) The provisions of this section are self-executing and require no further authorization or other enabling legislation.

Sec. 4. Section 71-813, Revised Statutes Supplement, 2004, is amended to read:

71-813. (1) The State Behavioral Health Council is created. The council shall consist of (a) ten members of the State Advisory Committee on Mental Health Services, (b) ten members of the State Advisory Committee on Substance Abuse Services, and (c) ten members of the State Advisory Committee on Problem Gambling and Addiction Services as appointed pursuant to sections 71-814 to 71-816. The Governor shall appoint three members from each such committee to serve on the council and each committee shall select seven of its members to serve on the council. At least two members appointed or selected from each committee shall be consumers.

(2) Members of the council and such committees shall be appointed for staggered terms of three years and until their successors are appointed and qualified. Vacancies for any unexpired term shall be filled in the same manner as provided for the original appointment. Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The council and each such committee shall annually elect a chairperson and other officers from among its members. No officer shall serve more than three consecutive one-year terms in any one office.

(3) The council shall be responsible to the division and shall (a) conduct regular meetings, (b) provide advice and assistance to the division relating to the provision of behavioral health services in the State of Nebraska, (c) promote the interests of consumers of behavioral health services and their families, and (d) report annually to the Governor and the Legislature.

Sec. 5. Section 71-815, Revised Statutes Supplement, 2004, is amended to read:

71-815. (1) The State Advisory Committee on Substance Abuse Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of substance abuse services in the State of Nebraska. The committee shall consist of twelve members appointed by the Governor and shall include at least three consumers of substance abuse services.

(2) The committee shall be responsible to the State Behavioral Health Council and shall (a) conduct regular meetings, (b) provide advice and assistance to the council and the division relating to the provision of substance abuse services in the State of Nebraska, (c) promote the interests of consumers and their families, (d) provide reports as requested by the council or the division, and (e) engage in such other activities as directed or authorized by the council.

Sec. 6. Section 71-816, Revised Statutes Supplement, 2004, is amended to read:

71-816. (1) The State Advisory Committee on Problem Gambling and Addiction Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of problem gambling and addiction services in the State of Nebraska. The committee shall consist of twelve members appointed by the Governor and shall include at least three consumers of problem gambling or addiction services.

(2) The committee shall be responsible to the State Behavioral Health Council and shall (a) conduct regular meetings, (b) provide advice and assistance to the council and the division relating to the provision of problem gambling and addiction services in the State of Nebraska, (c) evaluate applications for funding from the Compulsive Gamblers Assistance Fund and make recommendations relating to disbursements from the fund, (d) promote the interests of consumers and their families, (e) provide reports as requested by the council or the division, and (f) engage in such other activities as

directed or authorized by the council.

Sec. 7. Section 71-817, Revised Statutes Supplement, 2004, is amended to read:

71-817. The Compulsive Gamblers Assistance Fund is created. The fund shall include revenue transferred from the State Lottery Operation Trust Fund under section 9-812 and the Charitable Gaming Operations Fund under section 9-1,101 and any other revenue received by the division for credit to the fund from any other public or private source, including, but not limited to, appropriations, grants, donations, gifts, devises, ~~or~~ bequests, fees, or reimbursements. The division shall administer the fund for the treatment of problem gamblers as recommended by the State Advisory Committee on Problem Gambling and Addiction Services established under section 71-816 and shall spend no more than ten percent of the money appropriated to the fund for administrative costs. The Director of Administrative Services shall draw warrants upon the Compulsive Gamblers Assistance Fund upon the presentation of proper vouchers by the division. Money from the Compulsive Gamblers Assistance Fund shall be used exclusively for the purpose of providing assistance to agencies, groups, organizations, and individuals that provide education, assistance, and counseling to individuals and families experiencing difficulty as a result of problem gambling, to promote the awareness of gamblers assistance programs, and to pay the costs and expenses of the division and the committee with regard to problem gambling. The division shall not provide any direct services to problem gamblers or their families. Funds appropriated from the Compulsive Gamblers Assistance Fund shall not be granted or loaned to or administered by any regional behavioral health authority unless the authority is a direct provider of a problem gamblers assistance program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Section 71-818, Revised Statutes Supplement, 2004, is amended to read:

71-818. (1) The Behavioral Health Oversight Commission of the Legislature is created. The commission shall consist of not more than ~~twenty~~ twenty-five members appointed by the chairperson of the Health and Human Services Committee of the Legislature and confirmed by a majority of members of the committee. Members of the commission shall (a) include, but not be limited to, representatives of the Legislature, consumers and consumer advocacy organizations, behavioral health providers, the communities of Norfolk and Hastings, state employees, regional behavioral health authorities, mental health boards, and law enforcement, (b) possess a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of behavioral health services in the State of Nebraska, and (c) be broadly representative of all the behavioral health regions. Members of the commission shall serve without compensation but shall be reimbursed from the Nebraska Health Care Cash Fund for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(2) The commission, under the direction of and in consultation with the Health and Human Services Committee of the Legislature, shall oversee and support implementation of the Nebraska Behavioral Health Services Act and shall administer such funds as appropriated by the Legislature from the Nebraska Health Care Cash Fund for such purpose. The commission may employ staff, enter into contracts, establish and utilize task forces and subcommittees, and perform such other activities as necessary and appropriate to carry out its duties under this section.

(3) The commission and this section terminate on June 30, 2008.

Sec. 9. Section 71-922, Revised Statutes Supplement, 2004, is amended to read:

71-922. (1) Mental health board proceedings shall be deemed to have commenced upon the earlier of (a) the filing of a petition under section 71-921 or (b) notification by the county attorney to the law enforcement officer who took the subject into emergency protective custody under section 71-920 or the administrator of the treatment center or medical facility having charge of the subject of his or her intention to file such petition. The county attorney shall file such petition as soon as reasonably practicable after such notification.

(2) A petition filed by the county attorney under section 71-921 may contain a request for the emergency protective custody and evaluation of the subject prior to commencement of a mental health board hearing pursuant to such petition with respect to the subject. Upon receipt of such request and upon a finding of probable cause to believe that the subject is mentally ill and dangerous as alleged in the petition, the court or chairperson of the mental health board may issue a warrant directing the sheriff to take custody

of the subject. If the subject is already in emergency protective custody under a certificate filed under section 71-919, a copy of such certificate shall be filed with the petition. The subject in such custody shall be held in the nearest appropriate and available medical facility and shall not be placed in a jail. Each county shall make arrangements with appropriate medical facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

~~(2)~~ (3) The petition and all subsequent pleadings and filings in the case shall be entitled In the Interest of, Alleged to be Mentally Ill and Dangerous. The county attorney may dismiss the petition at any time prior to the commencement of the hearing of the mental health board under section 71-924, and upon such motion by the county attorney, the mental health board shall dismiss the petition.

Sec. 10. This act becomes operative on July 1, 2005.

Sec. 11. Original sections 71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922, Revised Statutes Supplement, 2004, are repealed.

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.